

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,
 Plaintiff,

v.

KENNETH GORDON WESCOTT,
 Defendant.

Case No. 2:14-cr-00085-APG-DJA

**ORDER (1) GRANTING IN PART
 MOTION FOR ORIGINAL DISCOVERY,
 (2) DENYING MOTION FOR
 ADDITIONAL DISCOVERY, AND
 (3) DENYING MOTION FOR WAIVER
 OF PRINTING FEES**

(ECF Nos. 479, 480, 484, 485)

Defendant Kenneth Wescott contends that when he was transported by the Bureau of Prisons, he had to leave behind most of his legal papers for this case. He now requests an order requiring the government to provide him “the original discovery, a complete copy of the docket containing all the motions, replies, and responses, and the trial memorandum” ECF No. 479 at 2. Wescott’s request is overly burdensome. The file in this case is enormous; the docket sheet lists over 485 filings, many of which have hundreds of pages of attachments. The unfiled discovery is likely voluminous as well.

The government is willing to provide Wescott a copy of the docket sheet and the *Faretta* colloquies. But the government requests that Wescott narrow the scope of his request, given the size of the court file and the fact that the discovery and some court filings contain sexually explicit communications that could be considered contraband.

I agree with the government’s offer to provide Wescott a CD containing the docket sheet and *Faretta* colloquies. ECF No. 487 at 2. The government shall also provide Wescott a copy of its Trial Memorandum. Wescott can then identify what specific, additional documents he needs to prepare his § 2255 motion.

1 I deny Wescott's motion for discovery under Rule 6(a) of the Rules Governing Section
2 2255 Proceedings. There is no § 2255 motion pending at this time so Rule 6 does not apply. *See*
3 Rule 1 of the Rules Governing Section 2255 Proceedings. And with no motion pending, I am
4 unable to determine whether discovery is needed and, if so, the appropriate scope. If Wescott files
5 a § 2255 motion, he may renew his request for discovery, but it must be tailored to the claims in
6 his motion.

7 If Wescott files a § 2255 motion, and depending on the nature of the claims he asserts, he
8 should consider requesting appointment of counsel to assist him, especially given that he likely
9 would not be permitted to have copies of contraband materials so it would be easier for him to
10 have a lawyer review such documents if necessary.

11 Finally, Wescott requests that I waive the cost of producing copies of ECF Nos. 55 and 68.
12 ECF No. 484. The document filed at docket number 55 is a one-page motion to proceed in forma
13 pauperis that Wescott filed on March 1, 2015. It simply states that he "is indigent and has been in
14 continuous custody since March 12, 2014 with no resources or income." ECF No. 55. The
15 document filed at docket number 68 is the government's response to Wescott's motion to compel
16 discovery. That filing totals 209 pages and contains sexually explicit communications that could
17 be considered contraband. Wescott has not shown a need for copies of either of those documents
18 at this time. If he files a § 2255 motion, he may renew his request for those documents if he can
19 justify the need based on the claims in his motion.

20 I THEREFORE ORDER that Wescott's motion for original discovery (**ECF No. 479**) is
21 **granted in part**. The government shall provide Wescott a CD containing the docket sheet, *Faretta*
22 colloquies, and its trial memorandum by June 26, 2020. Wescott can then identify what specific,
23 additional documents he needs to prepare his § 2255 motion.

1 I FURTHER ORDER that Wescott's motion for additional discovery (**ECF No. 480**) is
2 **denied without prejudice.**

3 I FURTHER ORDER that Wescott's motion for waiver of printing costs (**ECF No. 484**) is
4 **denied without prejudice.**

5 I FURTHER ORDER that Wescott's motion for a request for an update on his pending
6 motions (**ECF No. 485**) is **denied as moot.**

7 I FURTHER ORDER the Clerk of the Court to send Wescott the court's approved form
8 for filing a § 2255 motion and instructions for the same.

9 Dated: June 16, 2020.

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ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE